

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of LUBOMIRSKY

Art Unit: 1796

Application No.: 10/560,107

I. A. FILED: June 10, 2004

Examiner: K. T. NGUYEN

Filed: December 9, 2005

Washington, D.C.

For: PYROELECTRIC COMPOUND AND METHOD FOR ITS PREPARATION

Atty.'s Docket: LUBOMIRSKY=1

Confirmation No.: 2902

Date: August 11, 2008

Customer Service Window, **Mail Stop Amendment**
Honorable Commissioner for Patents
U.S. Patent and Trademark Office
Randolph Building, 401 Dulany Street
Alexandria, Virginia 22314

Sir:

Transmitted herewith is a REPLY TO RESTRICTION AND ELECTION REQUIREMENTS in the above-identified application.☒ Small Entity Status: Applicant(s) claim small entity status. See 37 C.F.R. §1.27.☒ No additional fee is required.☐ The fee has been calculated as shown below:

(Col. 1)		(Col. 2)		(Col. 3)	SMALL ENTITY		OR	OTHER THAN SMALL ENTITY	
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA EQUALS	RATE	ADDITIONAL FEE		RATE	ADDITIONAL FEE
TOTAL	*	MINUS	** 20	0	x 25	\$		x 50	\$
INDEP.	*	MINUS	*** 3	0	x 105	\$		x 210	\$
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM					+ 185	\$		+ 370	\$
					ADDITIONAL FEE TOTAL			TOTAL	

* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 20, write "20" in this space.

*** If the "Highest Number Previously Paid for" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment of the number of claims originally filed.

☒ Conditional Petition for Extension of Time

If any extension of time for a response is required, applicant requests that this be considered a petition therefor.

☐ It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

Small Entity

Response Filed Within

☐ First - \$ 60.00
☐ Second - \$ 230.00
☐ Third - \$ 525.00
☐ Fourth - \$ 820.00

Month After Time Period Set

Other Than Small Entity

Response Filed Within

☐ First - \$ 120.00
☐ Second - \$ 460.00
☐ Third - \$ 1050.00
☐ Fourth - \$ 1640.00

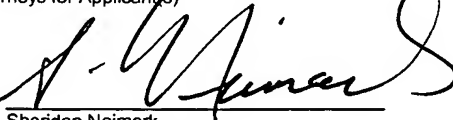
Month After Time Period Set

☐ Less fees (\$_____) already paid for ____ month(s) extension of time on _____.☐ Please charge my Deposit Account No. 02-4035 in the amount of \$_____.☐ Credit card payment authorizing payment in the amount of \$_____.☐ A check in the amount of \$_____ is attached (check no.).

☒ The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of Time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR §1.16 and all patent processing fees under 37 CFR §1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees under 37 CFR §1.18.

BROWDY AND NEIMARK, P.L.L.C.

Attorneys for Applicant(s)

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: LUBOMIRSKY=1

In re Application of:)	Confirmation No.: 2902
)	
Igor LUBOMIRSKY)	Art Unit: 1796
)	
Appln. No.: 10/560,107)	Examiner: K. T. NGUYEN
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Filing Date: December 9, 2005)	August 11, 2008
I. A. Filed: June 10, 2004)	
)	
For: PYROELECTRIC COMPOUND AND)	
METHOD OF ITS PREPARATION)	

REPLY TO RESTRICTION AND ELECTION REQUIREMENTS

Honorable Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Amendment
Randolph Building, 401 Dulany Street
Alexandria, VA 22314

Sir:

Applicant acknowledges receipt of the Office Action mailed July 11, 2008, comprising restriction and election of species requirements on the basis of purported lack of unity of invention under PCT Rules 13.1 and 13.2.

Regarding the restriction requirement, the PTO has designed two (2) groups. As applicant must make an election even though the requirement is traversed, applicant hereby respectfully and provisionally elects Group A which the Office Action says comprises claims 1-22 and 25-40, with traverse and without prejudice.

As best understood, the requirement is based on what appears to be standard U.S. restriction practice rather than PCT Rules 13.1 and 13.2. Thus, under the PCT Rules, what is important is not whether the different sets of claims are of different scope but instead whether both groups possess the

same or corresponding special technical features, which in this case they do. In other words, what counts is what the two sets of claims **share**, not their differences.

Withdrawal of the restriction requirement is respectfully requested.

In addition to the restriction requirement, applicant has also been required to elect a single species from the two designated. Again, as applicant must make an election even though the requirement is traversed, applicant hereby respectfully and provisionally elects the species of Group II, namely $(A_x B_{1-x}) (C_y D_{1-y}) O_n$, with traverse and without prejudice.

The Office Action designates claims 1, 19, 25, 31, 34 and 36 as generic, and applicant accepts that at least these claims are generic. The Office Action also says that claims 4-20, 25-28, 30, 32, 33, 35 and 37 read on the elected species, and applicant accepts this designation to the extent that it is not inconsistent with the designation of claims which are generic.

The requirement is traversed on the basis that there is common subject matter as inherently defined by what is recited in the generic claims, i.e. both species are recited in the generic claims, so such generic claims define the common subject matter. This meets the requirements of PCT Rules 13.1 and 13.2. Withdrawal of the requirement is respectfully requested.

Applicant understands that if the requirement is maintained and a generic claim is allowed, applicant will be entitled to consideration (and presumably allowance) of claims to the non-elected species which depend from the allowed

Appln. No. 10/560,107
Reply dated August 11, 2008
Reply to Office Action of July 11, 2008

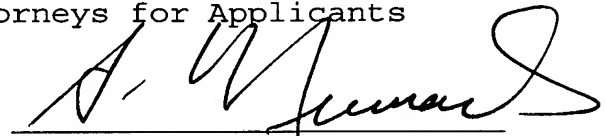
generic claim or claims, or which otherwise include all the features of the allowed generic claim or claims. Applicant is proceeding in reliance thereof.

Applicants now respectfully await the results of an examination on the merits.

Respectfully submitted,

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